

Pennsylvania; and Application of Eastern Telelogic Corporation for a Certificate of Public Convenience and Necessity to Provide and Resell Local Exchange Telecommunications Services in the Areas Served by Bell Atlantic-Pennsylvania, Inc. with the Philadelphia LATA, A-310258F0002, Opinion and Order, (Entered October 4, 1995).], the Commission adopted an interim number portability solution to foster competition in the local market, Flexible Co-Carrier Forwarding. Flexible Co-Carrier Forwarding is technologically similar to Remote Call Forwarding which is being used in other States pending the adoption of a long-term solution. Bell Atlantic was permitted to charge a \$4.00 recurring charge on an interim basis.

In October, 1995, the Commission held a public forum on long-term number portability solutions where representatives from Bell Atlantic, MCI, AT&T, the Pennsylvania Telephone Association, Eastern Telelogic, Teleport and GTE gave presentations on long-term number portability issues and solutions. The Commission has been awaiting the results of federal legislation and a final order in the FCC's rulemaking at CC Docket No. 95-116 [Footnote - The Commission filed Reply Comments with the FCC in this Docket on October 11, 1995. The Commission also filed a Limited Petition for Clarification with the FCC in Docket 92-237 seeking clarification on the interrelationship of the State/Federal roles in this area.] before taking any further action on the long-term number portability issue

7. Dialing Parity (Section 251(b)(3)).

The Commission commenced an investigation into IntraLATA interconnection arrangements on May 4, 1994. [Footnote - Investigation Into IntraLATA Interconnection Arrangements, Docket No. I-00940034.] On December 14, 1995, after a lengthy contested case hearing, the Commission adopted an Opinion and Order which requires LECs serving in excess of 250,000 access lines to implement intraLATA presubscription by June 30, 1997. LECs serving 250,000 access lines or less are required to implement intraLATA presubscription by December 31, 1997. Since the Commission's Order was adopted prior to December 19, 1995, its implementation is not preempted by § 271(e)(2) of the Act.

With regard to the issue of nondiscriminatory access to telephone number, operator services, directory assistance and directory listing, pursuant to the Commission's October 4, 1995, Opinion and Order in the MFS Proceeding, MFS and other competing carriers were given nondiscriminatory access to Bell Atlantic's directory listings. The Commission approved an interim one time charge of \$5.00 per customer for each listing in the directory and the directory assistance database. The Commission also addressed number assignments in this docket requiring Bell Atlantic to assign NXX codes to competitors at mutually agreed upon rating points, within 60 days. The Commission also required Bell Atlantic to provide its competitors access to its databases and record billing arrangements on the same terms as they are provided to other LECs pending further examination of this and related cost issues in the Commission's MFS II Proceeding.

8. Universal Service (Section 254).

The Commission commenced a proceeding on June 15, 1994 to comprehensively examine the issue of universal service in Pennsylvania including the underlying cost issue and the need to identify all existing subsidies. [Footnote - In re: Formal Investigation to Examine and Establish Updated Universal Service Principles and Policies for Telecommunications Service in the Commonwealth, Docket No. I-940035 (Entered June 15, 1994).] Currently, there are hearings being conducted on this issue which are expected to last approximately two weeks. The end result of this proceeding will be the establishment of explicit, competitively neutral fund subsidies aimed at achieving "affordable" rates in high-cost areas in Pennsylvania.

The Commission has taken a myriad of other measures to increase subscribership levels in Pennsylvania including those discussed in its comments filed in the FCC's recent rulemaking on this issue. [Footnote - In the Matter of the Amendment of the Commission's Rules and Policies to Increase Subscribership and Usage of the Public Switched Network, Docket No. 95-115.]

9. Geographic Averaging (Section 254(g)).

Chapter 30 of Pennsylvania's Public Utility Code specifies that the Message Toll Service (MTS) rates of interexchange carriers are subjected to certain limitations regarding the concept of rate deaveraging. Although most of the IXCs' services are classified as competitive services and are not subject to rate regulation by the Pennsylvania P.U.C. as of January 1, 1994, IXCs "...shall not be permitted to de-average standard message toll service rates unless authorized to do so by the [Pennsylvania P.U.C.]" 66 Pa. C.S. § 3008(d). A similar limitation would apply for any incumbent LEC MTS services that could be found to be competitive and deregulated. 66 Pa. C.S. § 3004(d)(3).

The Pennsylvania P.U.C. has adjudicated certain cases which dealt with the issue of IXC standard message toll service rate de-averaging. In one such case, AT&T Communications of Pennsylvania, Inc. (AT&T), proposed the implementation of different rate schedules for its Message Toll Service (MTS) residential and business customers. The Commission reasoned that although residential customers would pay more than business customers for MTS calls carried over certain mileage distances, AT&T's tariff did "...not propose differing rates based upon a customer's geographical location in this Commonwealth...", thus, the AT&T filing was not considered to be rate deaveraging. AT&T Petition For Approval of Revised Optional Calling Plans, Docket No. L-00920069 *et al.*, Opinion and Order entered January 24, 1995, at 6. The same issue also arose in the context of IXC promotional offerings and the increasing competitive presence of IXCs in the market for intraLATA toll calls that are usually made through the use of LEC long-distance services.

Through a certain MTS promotion, AT&T was offering intraLATA MTS toll rates for intraLATA toll calls originating in Bell's exchanges, which were lower than AT&T's MTS base rates for interLATA toll calls, or, for intraLATA toll calls that originated in exchanges of LECs other than Bell. When AT&T proceeded to implement that promotional pricing on a permanent basis, the Pennsylvania P.U.C. reviewed the associated filing. The Pennsylvania P.U.C. approved of AT&T's filing "...without hearings or an investigation and with the full understanding that" AT&T's filing "may fit the technical definition of rate deaveraging" since the "Chapter 30 law authorizes the Commission to allow deaveraging." The Pennsylvania P.U.C. reasoned that there was no "...increase of rates in one customer class or geographic area to make up revenue losses resulting from the decrease in rates for some other customer class or geographic area", and that AT&T had "not attempted to make up a potential revenue loss for intraLATA toll calls of Bell's customers by increasing its [AT&T's] rates to customers in the service territories of other local exchange telephone companies." Pennsylvania P.U.C. v. AT&T Com. of Pa., Inc., Docket No. M-00940503F0095, Opinion and Order entered March 31, 1995, at 6.

The provision of telecommunications services within the concept of geographic rate deaveraging is premised both on cos-of-service and "value of service" principles. The geographic population density certainly affects the cost-of-service for the provision of local, toll, and carrier access services, e.g., the population density can affect the length, and thus the associated cost of outside local loop plant for the provision of local exchange service. Consequently that has a corresponding impact on the price of the offered services. Similarly, older "value of service" principles can affect the prices of telecommunications services, e.g., local exchange service in urban areas have been and continue to be priced at higher levels based on the "number of subscribers that a caller can reach."

Cost-of-service concepts have entered the debates on geographic rate de-averaging in the provision of interexchange toll services. IXC's do face differential originating and terminating access rates by various LECs within and across the boundaries of Local Access and Transport Areas (LATAs). Similarly, the per unit provision of such services is affected by the volume of traffic that travels along interexchange toll services routes. To the extent that high and growing volumes of traffic traverse already installed facilities which can have their capacity expanded at a relatively small incremental cost, e.g., through the upgrading of a fiber optic 1.544 Mbps DS transmission facility to a 44 Mbps DS3 transmission path, the per unit cost of the associated traffic volume is and will be declining. Depending on the conditions of the existing and emerging competitive environment, the price of the same unit of service may be affected as well. However, interexchange services pricing structures which used to be distance and time-of-day sensitive, are increasingly reflecting the non-traffic sensitive character of the associated underlying facilities and their digital switching and transport technologies, i.e., we see more flat rate pricing on a per minute basis, irrespectively of how far a toll call travels and what time-of-day is made.

South Dakota

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1. Certification requirements and removal of barriers to entry:

A. Certificates of Authority: All telecommunications companies seeking to provide intrastate services in South Dakota must apply to the Commission for a certificate of authority no less than sixty days prior to initiating any telecommunications service in the state. The telecommunications company has the burden to prove that it has sufficient technical, financial, and managerial capability to offer telecommunications services. See SDCL 49-31-3

B. Facilities-based local exchange service:

1. Within U S WEST territory the provider must apply to the Commission for authority and the Commission may allow the construction of access facilities if the provider demonstrates that the facility is in the public interest and will provide competition. The Commission may allow the application without hearing

2. If the service is to be provided in the service territories of cooperatives, municipals, or independents serving fewer than ten thousand customers, no new local exchange carrier may construct access facilities unless the incumbent provider fails to provide adequate service and will not provide adequate service within a reasonable time. See SDCL 49-31-21.

C. Resale of local exchange service: SDCL 49-31-21 only refers to construction of access facilities; it does not refer to the resale of local exchange service. In a recently opened docket before the Commission, AT&T applied to the Commission to provide local exchange service through its facilities or resale or both. Prior to AT&T's application the Commission has not had any requests from a telecommunications company to provide resale of local exchange service. Therefore, the Commission has not established any precedent or issued any policies or rules governing the resale of local exchange service.

The existing statute was revised in 1988. There has been no recent activity to alter this statute.

As stated previously, AT&T has recently applied to provide local exchange service, but to our knowledge no facilities-based or resale providers have begun to offer competitive local service.

2. Interconnection and collocation: The Commission has statutory authority to compel access to any telecommunications facilities in this state. The Commission may order access upon such terms and conditions that are found to be in the public interest and apportion the expense of the access. See SDCL 49-31-15. However, a telecommunications company may not be compelled by the Commission to build a facility outside its local exchange territory, or a centralized point serving several exchanges, to connect to the company requesting the access. See SDCL 49-31-17. No rules or policies governing collocation or interconnection exist.

3(a) Unbundled access; 3(b) Pricing of unbundled access; and 3(c) Rates, terms and conditions: The Commission has established switched access rules to determine the price a telecommunications company can charge for each of the three elements of switched access: carrier common line, local switching, and transport. See ARSD Chapters 20:10:27 through 20:10:29. These rules are based on Parts 36 and 69 of the FCC rules as they existed in 1991. No other rules, standards, or tariffs have been established for the unbundling of an incumbent LEC's network elements.

4. Mutual compensation: See answer to number 3.

5. Resale: See answer to questions (1).

6. Number portability: There has been nothing promulgated on number portability.

7. Dialing parity: No rules are in place.

8. Universal service: There has no intrastate universal service mechanism established.

10. Geographic averaging: For U S WEST local exchange service, rates are averaged based on number of access lines within the local exchange. Interexchange service is also required to be uniform, although volume discounts are allowed. See SDCL 49-31-4.2.

Texas

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The following are our responses to the questions contained in your March 4 letter. Texas Public Utility Regulatory Act of 1995 (PURA 95) can be found on the internet at the Texas PUCs Web page: <http://www.puc.texas.gov>.

1. Certification Requirements and Removal of Barriers to Entry - PURA 95 specifies that it is the policy of this state to promote diversity of providers and interconnectivity and to encourage a fully competitive telecommunications marketplace while protecting and maintaining the wide availability of high quality, interoperable, standardsbased telecommunications services at affordable rates. These goals are best achieved by legislation that brings telecommunications regulation into the modern era by guaranteeing the affordability of basic telephone service in a competitively neutral manner, while fostering free market competition within the telecommunications industry. The Texas law established two new certification categories for emerging competitors for local exchange services. In recent months, the Texas PUC has approved 17 applications for these new certificates. Some parties have argued that the Texas law places unreasonable barriers to entry into the local exchange market, and those arguments will likely be examined in regulatory and court cases.

2. Interconnection and Collocation - The Texas PUC has proposed an interconnection rule (23.97) that sets forth guidelines for negotiations for interconnection rates, terms and conditions. It is anticipated that the Commission will adopt this rule in April. The proposed rule requires CTUs to provide access to facilities, signaling systems and other services. CTUs can negotiate the technical feasible points of interconnection. PUC Substantive Rule 23.92 requires Southwestern Bell and GTE to offer collocation for switched access, special access and private line in the same manner, at the same location, under the same terms and conditions (except for price) as the FCC requirements for collocation. Under current FCC requirements, virtual collocation is mandatory and physical collocation is optional.

3(a). Unbundled Access - Section 3.452 of PURA 95 requires unbundling - 1) to the extent ordered by the FCC (addressed in rulemaking Project No. 14555) 2) further unbundling of LEC network - Project No. 14959 (could be a rulemaking or an evidentiary proceeding). This proceeding will address the public interest aspect and competitive merits of further unbundling. As part of that review, the commission will determine whether any network elements should not be unbundled, if access to network elements is proprietary and the impact of the access or lack of it to proprietary unbundled elements on the incumbent and the new entrant. Access to operator services such as 411 and 911, databases and signaling are addressed under principles of interconnection in proposed rule 23.97.

3(b). Pricing of Unbundled Access - Pricing of unbundled elements could be subject to the pricing rule under PURA 95. Pricing on an interim basis is being addressed in rulemakings and proceedings -switched transport (23.23(d)), signalling and ONA (proposed rule 23.99 - FCC Unbundling), Loops (in Docket No. 14659 - unbundled local loop). 1) 23.91 (TS -LRIC - forward looking costs) is the commission-approved cost standard. 2) 23.91 contemplates identifying common costs. To what degree should prices reflect allocations of common costs will be the subject of pricing rule. 3) Pricing rule could address the issue of whether prices should reflect costs associated with public policy programs. 4) For companies electing under title (H) of PURA - if unbundled elements are classified in Basket II and Basket III, then pricing flexibility may be allowed under relevant sections of PURA. 5) refer to response to (4).

3(c). Rates, Terms, and Conditions - The commission has not established interconnection rates pursuant to Section 3.458 of PURA 95. If interconnection rates relate to line side interconnection, then rates, terms, and conditions for unbundled local loop will be established in Docket No. 14659.

4. Mutual Compensation (Reciprocal Compensation) - The PUCs proposed interconnection rule (23.97) provides criteria for setting mutual compensation rates but does not prescribe compensation level or compensation structure. CTUs have to negotiate and if negotiations fail, there will be a 9 month bill and keep period beginning from the date the first commercial call is terminated (under Section 3.458 of PURA 95) and the commission will establish interconnection rates, terms and conditions. Therefore, no determination has been made regarding rates for end-office termination versus tandem termination.

5. Resale - PURA 95 contains numerous guidelines for the elimination of resale prohibitions by incumbent LECs. Large LECs electing into the incentive regulation provisions of PURA 95 filed loop resale tariffs (usage sensitive) in response to the law. Costing and pricing rulemakings are also mandated as necessary steps toward the overall removal of resale prohibitions. (TSLRIC is the generally accepted costing standard.)

6. Number Portability - PURA 95 requires the PUC to adopt guidelines governing telecommunications number portability and the assignment of telephone numbers in a competitively neutral manner. The commission rules may not be inconsistent with the rules and regulations of the Federal Communications Commission regarding telecommunications number portability. Further, the Texas statute requires that, [a]s an interim measure, the commission shall adopt reasonable mechanisms to allow consumers to retain their telephone numbers.

At a minimum, these mechanisms shall include the use of call forwarding functions and direct inward dialing for those purposes. Southwestern Bell and GTE have filed interim number portability tariffs with the PUC, and those cases are currently pending.

7. Dialing Parity - Past PUC decisions allow incumbent LECs to receive default 1+ intraLATA toll traffic. PURA 95 contains the following provisions with respect to dialing parity: while any local exchange company in this state is prohibited by federal law from providing interLATA telecommunications services, the local exchange companies in this state designated or de facto authorized to receive "0+" and "1+" dialed intraLATA calls shall be exclusively designated or authorized to receive those calls, and [e]ffective as of the time all local exchange companies are allowed by federal law to provide interLATA telecommunications services, the commission shall ensure that customers may designate a provider of their choice to carry their "0+" and "1+" dialed intraLATA calls and that equal access in the public network is implemented such that the provider may carry such calls.

8. Universal Service - The Texas PUC is given substantial authority to adopt policies to address universal service issues with an intrastate universal service fund. PURA 95 also requires that, [i]n the event of a Federal Communications Commission order, rule, or policy, the effect of which is to change the federal universal service fund revenues of a local exchange company or change costs or revenues assigned to the intrastate jurisdiction, the commission shall implement a mechanism, through either the universal service fund or an increase to rates if that increase would not adversely impact universal service, to replace the reasonably projected change in revenues caused by the regulatory action.

9. Geographic Averaging - Incumbent LECs rates for interexchange telecommunications services must be statewide average rates unless the commission on application and hearing orders otherwise. The PUC has the authority to require the maintenance of statewide average rates or prices of telecommunications service by all telecommunications utilities even though they are not dominant carriers. Local exchange service rates of incumbent LECs are not necessarily averaged, but may vary by rate group, consistent with toll-free calling areas. Rates for each incumbent LEC vary, depending on revenue requirements found in regulatory proceedings.

Vermont

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To: Brad Ramsay via ERMIS

From: Peter Bluhm, Policy Director, Vt. PSB (pbluhm@psb.state.vt.us)

Date: March 7, 1996

Re: NARUC survey; Vermont response

Here's Vermont's response to your quick survey. Most of what follows discusses Vermont's "ONA" docket, Docket 5713, which has been under way in Vermont for some time concerning the unbundling of the network and expanding interconnection requirements. (Docket No. 5713, *An Investigation into NET's tariff filing re: Open Network Architecture, including the unbundling of NET's network, expanded interconnection, and intelligent networks*) In this docket, the Hearing Officer recently issued a Proposal for Decision (PFD) on numerous preliminary and accounting issues that were considered in the "first phase" of this docket. The Public Service Board itself has heard oral argument on those issues, but has not made a final ruling. Most of what follows describes the proposals in that PFD, which will be uploaded separately to ERMIS in case you want to investigate any further.

1. Certification requirements for facilities-based and resale only providers; removal of barriers to entry.

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Telecommunications carriers in Vermont must obtain a Certificate of Public Good from the Public Service Board. All traditional IFCs have such certificates, as do numerous resellers. These certificates can be issued without hearing, and this procedure is commonly followed for resellers. The process involves resellers (apart from COCOTs and AOS providers) submitting an application to the Department of Public Service (DPS, the state public advocate for utility-related matters) for its review. Applications contain a proposed tariff, information regarding the financial soundness of the company, the competence of key company personnel, evidence of corporate registration with the Vermont Secretary of State, and a proposed order. The DPS makes a recommendation to the Public Service Board (PSB) which then may issue a certificate of public good (CPG) to the company.

Additional requirements apply to debit card services, who are required to file a bond. Coin operated telephone companies and AOS providers are required to file slightly more information and meet other requirements (e.g., posting and rate limits).

At the local exchange level, the Board has an expressed policy in favor of competition. *In re Hyperion Telecommunications of Vermont, Inc.*, Docket 5608, Order of 3/16/94 at 95. No effective facilities-based or reseller competition has appeared yet, although several developments indicate that such competition may be more likely in the near future. These include the presence of cellular providers in the state as well as the presence in Vermont of one competitive service provider, Hyperion Telecommunications of Vermont, Inc. Hyperion is authorized to provide some, but not all, local exchange services:

1. carrier-carrier service (connects an IXC's point of presence ("POP") in Burlington with the POPs of IXCs in other locations);
2. back-haul switched access (connects an IXC's POP to a central office or nearby location);
3. carrier to end-user service (connects an IXC's POP directly with end-users for transport of their incoming and outgoing interstate calls); and
4. point-to-point service (provides dedicated capacity from one location in Vermont to another location in Vermont). Docket No. 5608, Order of March 16, 1994, findings no. 44 - 47.

Hyperion and AT&T have recently made requests to NYNEX to negotiate interconnection agreements for local exchange service.

The Hearing Officer in Docket 5713 has left open the possibility that in the future some carriers may be required (possibly as a condition of receiving universal service) to provide service to particular service areas. Pfd at 68.

2. **Interconnection/collocation** See generally, Pfd at 50-57.

The Hearing Officer in Docket 5713 has proposed that incumbent LECs be required to interconnect with competitors. Pfd at 50. The Hearing Officer also:

- recommends that incumbent and competitive LECs both be required to negotiate and implement mechanisms that will allow for the fair and efficient interchange of traffic among their respective local exchange systems.
- Leaves inter-operability and service requirement standards, for the moment, to negotiations among carriers. Pfd at 56.
- Leaves points of interconnection issues to case-by-case resolution. Pfd at 57.

3a. Unbundled access See generally, PfD at 17-25.

The Hearing Officer in 5713 has recommended principles and a procedure for determining unbundled elements. The principles underlying unbundling are to set forth network functions that are available on a tariffed basis at rates that (1) promote economic efficiency, (2) are not subsidized, and (3) are non-discriminatory and without preferential terms for select carriers. PfD at 18. These functions include the link, end-office switching, inter-office transport, tandem switching, and signaling. PfD at 19.

Future requests for unbundling should be technically feasible and should be supported by adequate demand for the feature or function at reasonable prices sufficient to cover the incremental costs of provisioning the feature for resale. PfD at 22-23. Also to be considered is whether the requested feature is offered in another jurisdiction by the same company or is available on a widespread basis elsewhere. PfD at 23. A process similar to the FCC's ONA model, and with similar timeframes, will be used. PfD at 24.

3b and 3c. Pricing of unbundled access and Rates, Terms and Conditions See generally, PfD at 27-51.

The Hearing Officer recommended that studies of service costs be conducted using the "TSLRIC" methodology, and that the results be used for the purposes of testing for cross-subsidies and determining price floors. PfD at 30. Studies of NYNEX costs will be required, but smaller independent LECs could avoid this obligation. PfD at 31. NYNEX would be required to complete a study within 60 days, using the methodology developed in Oregon. PfD at 33. Formulas are suggested for wholesale and retail pricing by LECs and for retail pricing by CLECs. PfD at 34.

The Hearing Officer recommends the following pricing rules:

- (1) TSLRIC: Prices for wholesale services shall be set at or above their TSLRIC, unless there is an explicit public policy to do otherwise. PfD at 35, 41, 51.
- (2) Non-discrimination: The incumbent LEC shall not offer prices to itself or competing carriers at levels lower than those it charges other carriers that potentially compete for the same retail customers.
- (3) Imputation: In order to prevent competitive pricing abuses, the imputation standards established for

- determining the boundary relationship between a retail floor or a wholesale price ceiling shall not be violated.
- (4) **Demand Considerations:** Demand considerations may play a role in establishing a mark-up above TSLRIC. LECs may have discretion to propose prices for wholesale service that reflect these demand considerations.
 - (5) **Pricing to Reflect Cost Drivers:** Ideally, rate design should reflect the underlying character of cost causation, e.g., traffic-sensitive rates should generally not be associated with traffic-insensitive drivers.
 - (6) **Cost of Service:** Finally, the overall level of retail rates and wholesale rates shall be set to recover the overall cost of service (including joint, common costs, and historic accounting costs potentially above TSLRIC) as determined through a regulatory rate-setting proceeding or as determined through an incentive regulatory regime. PfD at 35-36.

The Hearing Officer also recommends that NYNEX be required to offer a wholesale tariff for "Type I" interconnection with cellular carriers. PfD at 58.

4. **Mutual compensation** See generally. PfD at 51-55.

The Hearing Officer would neither require nor prohibit "bill and keep" compensation. PfD at 52. However, the Hearing Officer would require NYNEX to pay Atlantic Cellular for traffic terminated by the latter. PfD at 58.

5. **Resale**

The Hearing Officer recommends that wholesale products be made available for resale, and also notes that in a competitive environment resale restrictions will likely be unsustainable. However, he concludes that resale restrictions should be removed only when the terms and conditions for entry into the market for local service have been established. Phase II of Docket 5713 will examine these questions in more detail. PfD at 26.

6. Number portability

The Hearing Officer did not make a recommendation on this issue, which will be considered in a later phase of Docket 5713.

7. Dialing parity

The Hearing Officer found the record insufficient to reach a conclusion on whether presubscription should be ordered for intrastate calls. Docket 5713 will examine this question in a subsequent phase. Pfd at 60.

8. Universal Service

Vermont statute defines basic service. The Public Service Board is recommending changes to this statute. The existing and proposed language is shown below, with the proposed language underlined:

Sec. 1. 30 V.S.A. § 7501(b) is amended to read:

§ 7501. PURPOSE; DEFINITIONS

* * * *

(b) As used in this chapter:

(1) "Basic telecommunications service" means that a customer has available at his or her location:

(A) switched one-party voice grade interactive telecommunications service permitting origination and termination of calls;

(B) the ability to transmit network switching instructions through tones generated by customer-owned equipment;

(C) the ability to transmit and receive the customer's computer-generated digital data, either by digital or analog transmission, reliably and at common transmission rates, using customer-owned equipment;

(D) the ability to communicate quickly and effectively with emergency response personnel; and

(E) telecommunications relay service, as authorized under section 218a of this title;

(F) operator assistance and online directory assistance;

(G) a single written directory listing and availability of written listings for the local calling area;

(H) reasonable public access to public telephones; and

(I) other related services as may be required from time to time by order of the public service board, after consideration of

the demand for the service, the ability of the service to access other telecommunications services, whether the service is optional, and the cost of the service.

In addition, the Hearing Officer in Docket 5713 has recommended that basic service include:

- (1) Single-party service, including switched voice-grade communications, access to toll service, and relay service as appropriate.
- (2) Continuous emergency access.
- (3) Availability of extended area service (currently defined in Vermont as local calling to all exchanges with a point not more than 3 miles from the home exchange).
- (4) Installation and repair services.
- (5) White pages (or equivalent) and directory assistance.

The Board has recommended to the Vermont Legislature that a Vermont High Cost Fund be authorized, to be funded by a surcharge on telecommunication services billed to a Vermont address. Payments would be authorized when local exchange costs in any area exceed 130% of the state average. The Board recommends the mechanism be a virtual voucher that would be portable across carriers who meet minimum service quality requirements for basic service. In addition, wireline carriers must meet whatever minimum service area obligations are established from time to time by the public service board.

These recommendations are included in a report to the Vermont General Assembly, titled *Universal Service in a Competitive Era*, in which the Board identified a virtual voucher as a likely candidate for a long-term distribution mechanism.

9. Geographic Averaging

No geographic de-averaging has occurred to date in Vermont, although some independent LECs serving small rural areas have higher than average rates. In Docket 5713, the Hearing Officer has recommended the production of cost studies that will permit geographic deaveraging in Phase II. The need for geographic deaveraging will also depend on other developments in Phase III of Docket 5713, such as the public service obligations of all local service carriers, and geographic service area requirements (if any) which are imposed upon local carriers.

Virginia

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1. Certification Requirements and Removal of Barriers to Entry:

- a. See Attached "Order Adopting Rules", Case No PUC9500018, 12-13-95 (hereinafter "Rules"), specifically Rule #2 and #3.
- b. Barriers to entry were removed by legislation effective 1-1-96; no barriers remain.
- c. No providers have begun to offer competitive local service.
- d. n/a
- e. n/a

2. Interconnection and Collocation:

- a. See attached rules #6 & #7.
- b. Subject to negotiations.
- c. Subject to negotiations.

3(a) Unbundled Access:

- a. Subject to negotiations.
- b. Subject to negotiations.
- c. No.
- d. n/a
- e. Subject to negotiations.
- f. Now unknown.
- g. Now unknown.

3(b) Pricing of Unbundled Access:

- a. See attached rule #6.
- b.(1) Now unknown
- c.(1) Now unknown
- d.(1) Now unknown
- e.(1) Now unknown
- f.(1) Now unknown

3(c) Rates Terms and Conditions:

- a. None.
- b. n/a.
- c. n/a.
- d. See attached rule # 6.

4 Mutual Compensation:

- a. See attached rule #6.
- b. Subject to negotiations.
- c. Subject to negotiations.
- d. Subject to negotiations.

5 Resale:

- a. Now Unknown (a proceeding, Case No. PUC950080 is underway)
- b. Now Unknown.
- c. Now Unknown.

6 Number Portability:

- a. Now Unknown (a proceeding, Case No. PUC950080 is underway)
- b. See attached rule # 7 & # 8.
- c. No.
- d. n/a

7 Dialing Parity:

- a. See attached rule # 8.
- b. Subject to negotiations.

8 Universal Service:

- a. Now Unknown. (a proceeding, Case No. PUC950081 is underway)
- b. Now Unknown.

10 Geographic Averaging:

a. Interexchange Carriers except AT&T are permitted to set rates with geographic differences for message telecommunications services; AT&T must have prior approval. AT&T has been permitted to set some private line rates with geographic differences. No other interexchange carrier has any rates with geographic differences.

b. AT&T's private line rates with geographic differences reflect differences in access costs (Special Access Charge).

- a. Now Unknown. (a proceeding, Case No. PUC950081 is underway)
- b. Now Unknown.

DECEMBER 13, 1995**COMMONWEALTH OF VIRGINIA, ex rel. STATE CORPORATION COMMISSION**

Ex Parte: In the matter of investigating local exchange telephone competition, including adopting rules pursuant to Virginia Code § 56-265.4:4.C.3 CASE NO. PUC950018

ORDER ADOPTING RULES

By order entered June 9, 1995, the Commission prescribed notice and invited comments regarding Draft Rules for Local Exchange Telephone Competition which had been prepared by the Commission Staff and were denoted as Appendix A of that order. Pursuant to that order, numerous comments regarding the draft rules and answers to the questions attached to the order as Appendix B were received by the deadline of August 4, 1995. In addition, several parties requested a hearing before the Commission or the ability to make reply comments.

By order entered August 8, 1995, the Commission scheduled for September 26, 1995, a hearing to receive oral argument. At that hearing, the Commission heard oral argument from the parties and testimony from one public witness. At the conclusion of the hearing, the parties were directed to file, within ten days of the hearing, letters indicating the issues upon which each party desired to present evidence. Five days thereafter, the parties were allowed to reply to the initial letters of other parties. Accordingly, letters were filed by numerous parties on October 6, 1995, describing potential evidentiary issues, and reply letters were filed on October 11, 1995.

After consideration of the record in this matter, we find that the rules attached hereto as Appendix A provide the minimum certification and other policy requirements necessary for potential new entrants to apply for certification as local exchange telephone service providers. These rules do not resolve any issues that require a factual or evidentiary determination. Rather, the rules permit subsequent resolution of controversial issues, such as interconnection rates and terminating traffic compensation, through negotiations among the parties, and preserve the opportunity for evidentiary hearings when needed.

The Commission is aware that it is likely that resolution of additional issues and further inter-company agreements beyond the scope of interconnection will be necessary as local telephone competition unfolds. The Commission encourages the parties to include any such issues in the negotiation process. However, as these rules have been established only as the minimum necessary for certification, the Commission shall initiate proceedings to incorporate additional rules as needed.

As such, the Commission is also of the opinion that separate dockets should be established to address the issues of resale and universal service obligations. Parties to this case argued that these vital issues could only be decided after evidentiary hearings are held to develop the pertinent facts. However, most of the parties also contended that the certification rules need not be delayed while these issues are being heard and determined, and the Commission agrees.

The adoption of certification rules in this order will not prejudice or impair the subsequent development of facts and determination of other vital issues. Rule 9, for example, addresses the guiding principles of universal service, but allows flexibility in determining specific issues. It permits the Commission to establish a universal service fund after fixing the definition of basic local exchange telephone service and calculating any subsidy necessary to keep such service ubiquitous. Evidentiary hearings will be necessary to develop this definition and to determine the need for and the amount of any subsidy. The Rule designates the incumbents as the carriers of last resort until the Commission determines otherwise. Thus, Rule 9 lays the conceptual foundation for full development of the facts necessary for ultimate determination of these issues.

Resale is not specifically addressed in the certification rules, but many parties believe it is essential to the development of competition in all areas of the Commonwealth. Since construction of duplicate facilities consumes considerable time and requires capital, many areas of Virginia will have only the current telecommunications network for the foreseeable future. Our rules do not prohibit the resale of a local exchange carrier's services, but resale should not be summarily decreed. It is necessary for the Commission

to consider a number of issues before requiring the resale of existing local exchange services. A determination should be made of whether wholesale rates should be established and the applicable price or discount. It should also be determined what services should be available for resale and what criteria should be utilized to determine such availability. The Commission needs a thorough analysis of such issues before determining the best policy concerning resale.

The certification rules permit parties to negotiate on two crucial elements -- interconnection arrangements and terminating traffic compensation. Interconnection of networks for the mutual exchange of local traffic between and among new entrants and incumbents is necessary and vital to the development of competitive local exchange markets and to provide for continued ubiquitous calling for all telecommunications users. Determination of proper compensation for termination of traffic among carriers is also a crucial element of the competitive arena. Ideally, new entrants would know the precise terms, conditions, and prices of these items before applying for certification. However, these two issues involve fundamental policy questions and resolving them would require the weighing of extensive evidence. With these rules, we encourage and provide a structure for the good faith negotiation of these issues, and a process for litigating any unresolved matters.

The availability of local number portability will be another critical element in promoting competition and assessing the potential for competition in the local exchange market. Interconnection agreements should therefore include provisions regarding local number portability, and Rule 8 provides guidance on this subject.

The rules fulfill the mandates of § 56-265.4:4.C.3 of the Code of Virginia. They promote and seek to assure the provision of competitive services to all classes of customers throughout all geographic areas of the Commonwealth by a variety of service providers. As just noted, the rules encourage competition and require equity in the treatment of new entrants and incumbents by encouraging negotiations on the important issues of terminating traffic compensation and interconnection arrangements, as well as providing for litigation of issues. They also consider the impact on competition of any government-imposed restrictions limiting the markets to be served or the services offered by any provider. Rule 4 provides the form of rate regulation by imposing price ceilings for new entrants providing local exchange services that are comparable to those noncompetitive services currently provided by the incumbents and also allows new entrants to submit an alternative regulatory plan for the Commission to consider. Finally, Rule 5F specifically provides requirements to ensure there is no cross-subsidization of a new entrant's competitive local exchange telephone services by any other of its services over which it has a monopoly.

We are establishing, by separate orders, two new dockets, Case No. PUC950080 and Case No. PUC950081 to investigate the issues of resale and universal service, respectively. Initially, comments will be invited on each new docket and later, procedural schedules will be established that provide for the prefiling of testimony and the setting of hearing dates.

In conclusion, the attached rules provide potential new entrants with the fundamental parameters they need to consider in deciding whether to offer local exchange services in Virginia and to apply for certification. The process of negotiating for interconnection arrangements and terminating traffic compensation, together with the generic proceedings on resale and universal service, will complement the rules and the certification process, thereby establishing the framework for providing local exchange telephone competition throughout the Commonwealth. Accordingly,

IT IS, THEREFORE, ORDERED THAT

(1) The Commission rules attached hereto as Appendix A are hereby adopted pursuant to Virginia Code §56-265.4:4.C.3.

(2) There being nothing further to come before the Commission herein, this case shall be, and is hereby, closed and the papers herein shall be placed in the Commission's files for ended causes.

AN ATTESTED COPY of this Order shall be sent by the Clerk of the Commission to: local exchange telephone companies as set out in Attachment 1 hereto; all Virginia certificated interexchange carriers as set out in Attachment 2 hereto; Edward L. Petrini, Senior Assistant Attorney General, Office of the Attorney General, Division of Consumer Counsel, 900 East Main Street, Richmond, Virginia 23219;

Richard Gary, Esquire, Hunton & Williams, Riverfront Plaza, East Tower, 951 East Byrd Street, Richmond, Virginia 23219-4074; Jean Ann Fox, President, Virginia Citizens Consumer Council, 114 Coachman Drive, Yorktown, Virginia 23693; James C. Roberts, Esquire, and Donald Owens, Esquire, Virginia Cable Television Association, Mays & Valentine, P.O. Box 1122, Richmond, Virginia 23208; Louisa Monacell, Esquire, and Alexander Skirpan, Esquire, Christian, Barton, Epps, Brent & Chappell, 1200 Mutual Building, 909 East Main Street, Richmond, Virginia 23219-3095; Ronald B. Mallard, Director, Fairfax County Department of Consumer Affairs, 12000 Government Center Parkway, Suite 433, Fairfax, Virginia 22035; Claude W. Reeson, Surry County Chamber of Commerce, 8263 Colonial Trail West, Spring Grove, Virginia 23881; Nelson Thibodeaux, Preferred Carrier Services, 1425 Greenway Drive, Suite 210, Irving, Texas 75038; Michael Beresik, AARP, 601 East Street, N.W., Washington, D.C. 20049; James R. Hobson, Esquire, National Emergency Number Association, 1100 New York Avenue, N.W., Suite 750, Washington, D.C. 20005-3934; Cecil O. Simpson, Jr., U.S. Department of Defense, 901 North Stuart Street, Arlington, Virginia 22203-1837; Richard M. Tettelbaum, Citizens Telecommunications, 1400 16th Street, N.W., Suite 500, Washington, D.C. 20036-3917; Naomi C. Klaus, Esquire, Metropolitan Washington Airports Authority, 44 Canal Center Plaza, Suite 218, Alexandria, Virginia 22314; Brian Sulmonetti, WorldCom, Inc., d/b/a LDDS, 1515 South Federal Highway, Suite 400, Boca Raton, Florida 33432; D.R. Maccarelli, CFW Communications, P.O. Box 1990, Waynesboro, Virginia 22980-7590; Jodie Donovan-May, Esquire, Teleport Communications Group, Inc. 1133 21st Street, N.W., Washington, D.C. 20036; Andrew Isar, Telecommunications Resellers Association, 4312 92nd Avenue, N.W., Gig Harbor, Washington, D.C. 98335; Andrew D. Lipman, Esquire, MFS Intelenet of Virginia, Inc., 3000 K. Street, N.W., Suite 300, Washington, D.C. 20007; David W. Clarke, Washington/Baltimore Cellular, P.O. Box 796, Richmond, Virginia 23206; James W. Wright, Esquire, Central Telephone/United, 14111 Capital Boulevard, Wake Forest, North Carolina 27587-5900; the Commission's Office of General Counsel; and the Commission's Divisions of Communications, Public Utility Accounting, Economics and Finance, and Public Service Taxation.

APPENDIX A - RULES FOR LOCAL EXCHANGE TELEPHONE COMPETITION

§ 1. Definitions.

The following words and terms, when used in this regulation, shall have the following meanings unless the context clearly indicates otherwise:

"Incumbent local exchange telephone company" or "incumbent" means a public service company providing local exchange telephone service in Virginia on December 31, 1995, pursuant to a certificate of public convenience and necessity.

"Interconnection" means the point of interface between local exchange carriers' networks. Interconnection can be achieved at different points of the network.

"Interim number portability" means the service provided in lieu of true number portability. Interim solutions available from the incumbent local exchange telephone company, which include remote call forwarding and direct inward dialing, enable customers to change providers without the appearance of changing telephone numbers, but rely on the incumbent's network to process some or all calls.

"Local exchange carriers" means all certificated providers of local exchange telephone service, whether incumbents or new entrants.

"Mutual exchange of traffic" means the reciprocal arrangement by which local exchange carriers terminate the local calls of other local exchange carriers' customers on their networks.

"New entrant" means an entity certificated to provide local exchange telephone service in Virginia after January 1, 1996, under §56-265.4:4C of the Code of Virginia. An incumbent local exchange telephone company shall be considered a new entrant in any territory for which it obtains a certificate to provide local exchange service on or after January 1, 1996, in accordance with these rules and which is outside the territory it is certificated to serve as of December 31, 1995.

"Terminating compensation" means the payment or other exchange mechanism used by local exchange carriers for terminating the local exchange traffic of other local exchange carriers.

"True number portability" means the technical capability of a local exchange carrier to allow customers to retain their telephone number when they change providers (without a change in location) without reliance on calls being routed through the end office where the original NXX is assigned.

"Unbundling" means the process by which a local exchange telephone carrier's network is disaggregated into functional components.

§ 2. Certification requirements.

A. An original and 15 copies of an application for a certificate of public convenience and necessity shall be filed with the Clerk of the State Corporation Commission.

B. Notice of the application shall be given to all local exchange carriers in the applicant's proposed service territory. Each applicant shall publish notice in newspapers having general circulation in the proposed service territory in a form to be prescribed by the Commission.

C. The application shall identify the applicant including (i) its name, address, and telephone number; (ii) the name, address, and telephone number of its corporate parent or parents, if any; (iii) a list of its officers and directors or, if the applicant is not a corporation, a list of its principals; (iv) the names, addresses, and telephone numbers of its legal counsel and; (v) any other identifying information the Commission determines to be necessary.

D. Each incorporated applicant shall demonstrate that it is authorized to do business in the Commonwealth of Virginia as a public service company.

E. Applicants shall be required to show their financial, managerial, and technical ability to render local exchange telephone service.

1. As a minimum requirement, a showing of financial ability shall include the applicant's most recent audited financial statements, most recent stockholders annual report and most recent SEC Form 10-K if the company is publicly traded.

2. To demonstrate managerial experience, each applicant shall attach a brief description of its history of providing telecommunications or other relevant services, if any; shall list the geographic areas in which it has and is currently providing service; and shall list the experience of each principal officer.

3. The applicant shall demonstrate its technical ability by attaching a description of its experience in providing telecommunications or other relevant services, if any, or the applicant may provide other documentation which supports its technical abilities.

F. Each application for a certificate to provide local exchange service shall include the applicant's initial tariffs, which shall include rules, regulations, terms, and conditions. Applicants that desire to have any of their services deregulated or detariffed shall file such a proposal in accordance with ^o 4 of this regulation.

G. The applicant shall file maps or other acceptable documents with the application for certification in sufficient detail to designate the actual geographic area or areas to be served. Such maps shall also identify each proposed initial local calling area of the applicant.

H. Each application shall include the applicant's proposed form of regulation for its services if such form of regulation differs from that set forth in ^o 4 of this regulation.

§ 3. Conditions for certification.

A. In the public interest evaluation of the applicant's request for a certificate to provide local exchange service, the Commission will, at a minimum, require a new entrant, either directly or through arrangements with others, to provide the following:

1. Access to 911 and E911 services;
2. White page directory listings;
3. Access to telephone relay services;
4. Access to directory assistance;
5. Access to operator services;
6. Equal access to interLATA long distance carriers;
7. Free blocking of 900- and 700-type services so long as the same requirement applies to incumbent local exchange companies; and
8. Interconnection on a nondiscriminatory basis with other local exchange telephone companies.

B. To the extent economically and technically feasible, the new entrant should be willing and able to provide service to all customers in the same service classification in its designated geographic service area in accordance with its tariff offerings.

C. The new entrant shall have procedures to prevent deceptive and unfair marketing practices.

D. The new entrant shall comply with applicable Commission service and billing standards or rules.

E. The new entrant shall, at a minimum, comply with the applicable intraLATA access requirements of incumbent local exchange telephone companies as determined in Case No. PUC850035, Commonwealth of Virginia, ex rel. State Corporation Commission Ex Parte: Investigation of competition for intraLATA, interexchange telephone service.

§ 4. Regulation of new entrants providing local exchange telephone service.

A. Unless otherwise allowed by the Commission, tariffs are required for all local exchange service offerings except those that are comparable to "Competitive" offerings of the incumbent telephone company that do not require tariffs. The Commission may convene a hearing to determine the applicable requirements and classification of any new entrant's local exchange service offerings.

B. The new entrant may petition the Commission to consider deregulation or detariffing treatment for any of its specific service offerings.

C. Unless otherwise allowed by the Commission, prices for local exchange services provided by the new entrant shall not exceed the highest of the comparable tariffed services provided by the incumbent local exchange telephone company or companies in the same local serving areas. Tariff changes within this price ceiling plan shall be implemented as follows:

1. Price decreases shall become effective on one-day notice to the Commission.
2. Price increases below ceiling rates shall become effective after 30-days notice is provided to the Commission, and notice to customers is provided through billing inserts or publication for two consecutive weeks as display advertising in newspapers having general circulation in the areas served by the new entrant.
3. Price ceilings shall be the highest tariffed rates as of January 1, 1996, for comparable services of any incumbent local exchange telephone company or companies serving within the certificated local service area of the new entrant. Price ceilings shall be increased as the highest tariffed rate of an incumbent is raised through applicable regulatory procedures. Unless otherwise determined by the Commission, price decreases for an incumbent's service, whether initiated by the carrier or adopted by the Commission, shall not require a corresponding decrease in the price ceilings applicable to the new entrant.
4. The Commission may permit pricing structures or rates of a new entrant's local exchange service(s) that do not conform with the established price ceilings, unless there is a showing that the public interest will be harmed.
5. These pricing requirements shall not apply to a new entrant's services that: (i) are comparable to services classified as competitive for the incumbent or (ii) have been provided regulatory treatment different than that specified by these rules.

D. Services offered by the new entrant that are not comparable to services offered by the incumbent and for which the Commission has not provided regulatory treatment different than that specified by these rules shall be filed with 30-days notice to the Commission. Price decreases for these services shall become effective on one-day notice to the Commission. Price increases shall become effective after 30-days notice to the Commission and notice to customers in the manner prescribed by subdivision C2 above.

E. A new entrant may, pursuant to § 56-481.2 of the Code of Virginia, submit an alternative regulatory plan to that described in this section for the Commission's consideration in the applicant's certification proceeding or at a later date.

F. No form of earnings regulation shall be required for the regulation of new entrants. However, new entrants shall be required to file financial and other reports as identified in § 5 of this regulation to enable the Commission to evaluate the effectiveness of local exchange telephone competition.

G. No new entrant providing local exchange telephone service shall abandon or discontinue local exchange service except with the approval of the Commission, and upon such terms and conditions as the Commission may prescribe.

H. Should the Commission determine that the form of regulation of new entrants does not effectively, or is no longer necessary to, regulate the prices of their services, it may, pursuant to § 56-481.2 of the Code of Virginia, modify the form of regulation.

§ 5. Financial and reporting requirements for new entrants.

A. All providers of local exchange telephone service certificated under this regulation shall be required to file the following reports with the Commission's Division of Economics and Finance:

1. Annual report on the number of access lines by local exchange area and classified by residential and business lines.
2. Annual price list for all detariffed competitive local exchange telephone services provided by the applicant.
3. Quarterly statement of units and revenues for all competitive telephone services provided by the applicant.
4. Audited financial statements, stockholders annual report, SEC Form 10-K and FCC Form M for the parent company and the new entrant, if available.

B. Reports and information required by the Division of Public Service Taxation in performing its functions under §§ 58.1-2600 through 58.1-2690 of the Code of Virginia shall be filed with the Commission's Division of Public Service Taxation.

C. A new entrant shall be required to remit the telecommunications relay surcharge amount to the Commission pursuant to the October 5, 1990, order issued in Case No. PUC900029, Commonwealth of Virginia at the relation of the State Corporation Commission Ex Parte: In the matter of implementing dual-party relay service pursuant to Article 5, Chapter 15, Title 56 of the Code of Virginia. The remittance, along with any other required information, shall be made to the Commission's Division of Public Service Taxation.

D. Any expansion or reduction of the geographic service area of a new entrant that does not involve an expansion of the territory covered by an existing certificate shall require the filing of amended maps or other acceptable documentation with the Commission's Division of Communications.

E. Upon request of the Commission staff, any new entrant shall file such other information with respect to any of its services or practices as may be required of public service companies under Virginia law.

F. A new entrant, determined by the Commission to have a monopoly over any of its services, whether or not those services are telephone services, shall file annual data to demonstrate that its revenues from local exchange telephone services cover the long run incremental costs of such local exchange telephone services in the aggregate.

§ 6 Interconnection.

A. Interconnection arrangements between local exchange carriers shall make available network features, functions, interface points, and other service elements on an unbundled basis. The Commission shall, on petition by any party to the proposed interconnection or on its own motion, determine the reasonableness of any interconnection request.

B. Interconnection arrangements shall apply equally and on a nondiscriminatory basis to all local exchange carriers.

C. Interconnection arrangements shall be made available pursuant to a bona fide written request. No refusal or unreasonable delay by any provider to another carrier will be tolerated.

D. Local exchange carriers shall provide nondiscriminatory use of pole attachments, conduit space, and rights-of-way.

E. Negotiation of interconnection agreements should be completed within 90 days of a bona fide request. Interconnection agreements shall be filed with the Commission within 10 days of their execution. Upon complaint of any affected party or on its own motion, the Commission may initiate a proceeding to determine if any such agreement is reasonable and nondiscriminatory.

F. No sooner than 45 days from the initial interconnection request, any party to the request may petition the Commission for a hearing in lieu of negotiations or as a result of unsuccessful negotiations. Upon such petition, the Commission shall establish a proceeding to determine tariffed prices and service arrangements for interconnection.

G. Unbundled functional elements of a local exchange carrier's network that are made available through interconnection agreements shall also be made available on an individual tariffed basis within 60 days of filing unless otherwise ordered by the Commission.

§ 7 Terminating traffic compensation.

A. Any compensation arrangement for the mutual exchange of local traffic should reflect the reciprocal relationship between local exchange carriers and the development of local exchange competition.

B. The Commission may establish at any time, upon application or its own motion, appropriate compensation levels for mutual exchange of local traffic.

C. Local exchange carriers may only deliver local traffic for termination on another carrier's local network at the compensation level established in conformance with this regulation.

D. Any compensation arrangements for the mutual exchange of local traffic shall provide for equitable treatment or rates between the local exchange carriers.

§ 8 Number portability and number assignment.

A. Consumers shall have the ability to retain the same telephone number if they remain in the same geographic area where the NXX is normally provided, regardless of their chosen local exchange carrier.

B. True number portability shall be made available when technically and economically feasible.

C. Interim number portability arrangements shall be utilized until true number portability is available.

D. To the extent feasible, the incumbent local telephone company shall provide new entrants with reservations for a reasonably sufficient block of numbers for their use.

§ 9. Universal service.

The goals of universal service and affordability of basic local exchange telephone service need to be maintained in a competitive local exchange environment for the citizens of Virginia. The following requirements shall apply:

1. The Commission may, if necessary, establish a Universal Service Fund and applicable payment mechanism. Any such Fund shall require the participation and support of all local exchange carriers.

2 The establishment of a Universal Service Fund shall first require the evaluation of the definition of basic local exchange telephone service and the calculation of the subsidy required to support the ubiquity of such service.

3 The incumbent local exchange companies shall be designated as the carriers of last resort in their current local serving areas until such time as the Commission determines otherwise.

§ 10. Commission authority

The Commission may, in its discretion, waive or grant exceptions to any of these rules and may also attach conditions or limitations to any certificate issued under these rules or §56-265.4:4C of the Code of Virginia.

Washington

Teresa Pitts

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1. Certification Requirements and Removal of Barriers to Entry (Section 253).

A 1985 state law authorizes the Commission to register new telecommunications companies (RCW 80.36.350). The criteria for approval of an application for registration by a telecommunications company are technical competence and financial adequacy. The process of registering usually takes less than 30 days, and generally does not require a hearing. There is no registration fee, and local counsel is not required. Information on registration, including sample applications, are available electronically through the Commission's web page on the Internet.

The number of companies operating in this state has grown from 24 regulated local exchange companies and four or five interexchange carriers to more than 300 telecommunications companies operating in all product markets. There are now six companies authorized to provide local exchange service in Washington.¹ Statewide authority is being granted, although new entrants are generally targeting high volume markets in Seattle initially. Electric Lightwave, TCG, and MCI Metro are emerging competitors in the Seattle metropolitan area in competition with U S WEST and GTE. These companies have installed switches and are using a combination of owned and resold lines. MFS Intelnet currently resells centrex from U S WEST, and has plans to deploy additional facilities once the terms of interconnection are better known. Tel-West (d/b/a NEXTLINK) is providing service in the relatively smaller market of Spokane.

2. Interconnection and Collocation (Sections 251(a)(1), (c)(6), &(c)(6)).

Our state constitution requires that any company or individual providing telephone service "receive and transmit each other's messages without delay or discrimination" (Const. art. 12, § 19).

¹ Electric Lightwave, TCG, MFS Intelnet, MCI Metro, Tel-West (d/b/a NEXTLINK) and WinStar Wireless. There are also applications to provide local service pending by International Telecom, LTD AT&T, and GST Telecom

The Commission has broad authority under state statutes to regulate the rates, services, facilities and practices of telecommunications in the public interest. (RCW 80.36.040(3), 80.36.080, 80.36.140 & 80.36.160)

The Commission has ordered the state's two largest local exchange companies (U S West Communications, Inc. and General Telephone) to exchange local traffic with all companies, new entrants and incumbents, on a bill and keep basis for an interim period that is to last at least until July, 1996. The two companies have been instructed to file by July 1, 1996, tariffs that replace bill and keep. The Commission expects that the industry will negotiate a replacement compensation regime that is based on the primarily fixed costs of interconnection. If not, then the two companies are required to propose a capacity charge that is cost based, supported by reasonable cost studies and, if including a contribution above TSLRIC, justifies the existence and magnitude of that contribution. (UT-941464 et al) (See answer 3c for more details).

The Commission's order does not affect the compensation for intrastate toll and the companies are required to distinguish between toll and local traffic for compensation purposes, by using either accounting or engineering measures (Docket UT-941464 et al)

The Commission believes that new entrants should have considerable flexibility to configure their networks in a manner they deem suitable and should not be forced to duplicate another company's system design in order to interconnect. Specific interconnection arrangements should be done in a way that maximizes efficiency.

The Commission has ordered that companies establish mutually agreed upon meet points for purposes of exchanging local traffic. Incumbents may establish, through negotiations, separate meet points for each company or negotiate a common hub by which multiple companies can come together efficiently. Each company shall be responsible for building and maintaining its own facilities up to the meet point and be responsible for the cost of carrying its originating traffic to the meet point and for carrying all other companies' terminating traffic back from the meet point to its destination. (Docket UT-941464 et al)

The Commission expects incumbents and new entrants to negotiate interconnection arrangements in good faith as co-carriers, otherwise, the Commission has expressed a willingness to revisit specific interconnection issues as required. (Docket UT-941464 et al).

The Commission believes there is no reason that virtual collocation should cost any more than physical collocation. The Commission is uncertain whether virtual collocation tariffs are necessary for interconnection. If meet points are established by mutual agreement, the decision about what equipment resides where will be part of that negotiation. However, it has indicated to USWest that it would accept its expanded interconnection tariff contingent on the company refiling rates consistent with a 1.2 loading factor for common costs using total service long run incremental costs and on resolving tariff language concerns raised by parties in the interconnection proceeding. The Commission did not order physical collocation. (Docket UT-941464 et al)

3a. Unbundled access (Section 251(c)(3), 251(d)(1)).

The Commission does not have rules governing unbundling. It has issued a policy paper regarding unbundling and an order requiring US West and GTE to tariff unbundled loops and line-side interconnection.

The Commission's policy paper states that incumbents seeking pricing flexibility will be rewarded with such flexibility based on the extent to which the company has opened up its network through efficient interconnection terms and the unbundling of its network. (Recommendation for an Alternative Form of Regulation for U S West Communications, Inc., May 2, 1994). Specifically, prices for emerging competitive services are afforded banded rate flexibility once the basic network functions necessary to provide the service have been unbundled and tariffed. In two previous orders, the Commission instructed USWest that it expected the company to move in the direction of unbundling monopoly and competitive elements as much as possible (Docket Nos. U-86-86 and UT-911488)

Finally, in Docket No. UT-941464, the Commission determined that unbundling of the local loop is "essential to the rapid geographic dispersion of competitive benefits to consumers and is in the public interest." The Commission ordered USWC and GTE to file tariffs that offer access to a two-wire connection from an end user's premise to the central office and provide for line side interconnection. The tariffs must be unbundled from redundant elements such as channel performance, remote testing and conditioning. In support of the tariff, the companies were ordered to file incremental cost studies consistent with Commission approved cost methodology, input data, assumptions and cost modeling. All unbundled services are allowed to be resold provided that loops intended for residential use are not resold as business.

Further unbundling, beyond the unbundled loop and line-side interconnection, will be necessary but was not ordered. Instead, the Commission endorsed a bona fide request procedure proposed by the Commission Staff's witness, Lee Selwyn, which requires unbundling based on a written request for such service. The Commission has not specifically stated that any service should not be unbundled. (Docket UT-941464 et al)

GTE and US West must provide access to operator services, directory assistance, line identification data base and other data bases on the same terms and conditions as they are provided to other incumbent local exchange companies. (Docket UT-941464 et al).

3b. Pricing of Unbundled Access (Section 251(c)(3) and 252(d)(1).

- (1) The Commission ordered US West and GTE to submit incremental cost studies in support of their unbundled loop tariffs (see 3a above on the requirement that they file these tariffs).
- (2)(3) The Commission has not determined what markup, if any, over TSLRIC would be included in the price of network access elements to cover either common costs or universal service costs.
- (4) Unbundled access elements would be offered under tariff. The Commission has not approved any pricing flexibility.
- (5) The Commission has not approved any discount plans, nor has it ruled any out.

3c. Rates, Terms, and Conditions (Sections 251(c)(2)(d) and 252(d)(1).

Specific rates and terms have not yet been approved. The incumbent companies were ordered to file interconnection tariffs with mutual traffic exchange (bill and keep) as the interim compensation mechanism. The Commission's interconnection order reached several conclusions on ratemaking principles:

- (a) Attempting to unify rate structures in the toll and local access markets by imposing toll-type per-minute charges on local access is misguided and unnecessary;